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Dated: March 15, 2005

Signature:

(Raymond Garguilo, Jr.)

Docket No.: SPINE 3.0-437 CPCPCPCPCPCPCP I CON V  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Errico et al.

Application No.: 10/663,486

Group Art Unit: 3738

Filed: September 16, 2003

Examiner: Not Yet Assigned

For: INTERVERTEBRAL SPACER DEVICE  
HAVING RECESSED NOTCH PAIRS FOR  
MANIPULATION USING A SURGICAL  
TOOL

MS Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**INFORMATION DISCLOSURE STATEMENT**

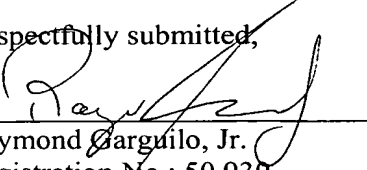
Dear Sir:

It is respectfully requested that the references listed on the enclosed form be made of record and considered with respect to the above-referenced U.S. patent application. Submission of the present Information Disclosure Statement should not be taken as an admission that the cited references are legally available prior art or that the same are pertinent or material.

In the event that any fee is due in connection with the present Information Disclosure Statement, the Commissioner is hereby authorized to charge the same to our Deposit Account No. 12-1095.

Dated: March 15, 2005

Respectfully submitted,

By   
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Substitute for form 1449A/B/PTO

**INFORMATION DISCLOSURE  
STATEMENT BY APPLICANT**

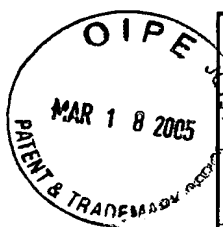
(Use as many sheets as necessary)

| Sheet                  | 1                                      | of | 2 | <table border="1"> <tr> <th colspan="2">Complete if Known</th></tr> <tr> <td>Application Number</td><td>10/663,486</td></tr> <tr> <td>Filing Date</td><td>September 16, 2003</td></tr> <tr> <td>First Named Inventor</td><td>Joseph P. Errico</td></tr> <tr> <td>Art Unit</td><td>3738</td></tr> <tr> <td>Examiner Name</td><td>Not Yet Assigned</td></tr> <tr> <td>Attorney Docket Number</td><td>SPINE 3.0-437<br/>CPCPCPCPCPCPC I CON V</td></tr> </table> | Complete if Known |  | Application Number | 10/663,486 | Filing Date | September 16, 2003 | First Named Inventor | Joseph P. Errico | Art Unit | 3738 | Examiner Name | Not Yet Assigned | Attorney Docket Number | SPINE 3.0-437<br>CPCPCPCPCPCPC I CON V |
|------------------------|--|----|---|---|-------------------|--|--------------------|------------|-------------|--------------------|----------------------|------------------|----------|------|---------------|------------------|------------------------|--|
| Complete if Known      |  |    |   |   |                   |  |                    |            |             |                    |                      |                  |          |      |               |                  |                        |  |
| Application Number     | 10/663,486                             |    |   |   |                   |  |                    |            |             |                    |                      |                  |          |      |               |                  |                        |  |
| Filing Date            | September 16, 2003                     |    |   |   |                   |  |                    |            |             |                    |                      |                  |          |      |               |                  |                        |  |
| First Named Inventor   | Joseph P. Errico                       |    |   |   |                   |  |                    |            |             |                    |                      |                  |          |      |               |                  |                        |  |
| Art Unit               | 3738                                   |    |   |   |                   |  |                    |            |             |                    |                      |                  |          |      |               |                  |                        |  |
| Examiner Name          | Not Yet Assigned                       |    |   |   |                   |  |                    |            |             |                    |                      |                  |          |      |               |                  |                        |  |
| Attorney Docket Number | SPINE 3.0-437<br>CPCPCPCPCPCPC I CON V |    |   |   |                   |  |                    |            |             |                    |                      |                  |          |      |               |                  |                        |  |

**U.S. PATENT DOCUMENTS**

| Examiner<br>Initials* | Cite<br>No. <sup>1</sup> | Document Number                          | Publication Date<br>MM-DD-YYYY | Name of Patentee or<br>Applicant of Cited Document | Pages, Columns, Lines, Where<br>Relevant Passages or Relevant<br>Figures Appear |
|-----------------------|--------------------------|--|--------------------------------|--|---|
|                       |                          | Number-Kind Code <sup>2</sup> (if known) |                                |  |   |
|                       | AA                       | US-2001/0016773-A1                       | 08-23-2001                     | Serhan et al.                                      |   |
|                       | AB                       | US-2002/0111681-A1                       | 08-15-2002                     | Ralph et al.                                       |   |
|                       | AC                       | US-2003/0014110-A1                       | 01-16-2003                     | Ralph et al.                                       |   |
|                       | AD                       | US-2003/0014112-A1                       | 01-16-2003                     | Ralph et al.                                       |   |
|                       | AE                       | US-2003/0028249-A1                       | 02-06-2003                     | Baccelli et al.                                    |   |
|                       | AF                       | US-2003/0055503-A1                       | 03-20-2003                     | O'Neil   |   |
|                       | AG                       | US-2003/0060886-A1                       | 03-27-2003                     | Van Hoeck et al.                                   |   |
|                       | AH                       | US-2003/0069586-A1                       | 04-10-2003                     | Errico et al.                                      |   |
|                       | AI                       | US-2003/0069642-A1                       | 04-10-2003                     | Ralph et al.                                       |   |
|                       | AJ                       | US-2003/0074067-A1                       | 04-17-2003                     | Errico et al.                                      |   |
|                       | AK                       | US-2003/0149482-A1                       | 08-07-2003                     | Michelson  |   |
|                       | AL                       | US-2003/0204260-A1                       | 10-30-2003                     | Ferree   |   |
|                       | AM                       | US-2003/0208271-A1                       | 11-06-2003                     | Kuras  |   |
|                       | AN                       | US-2003/0233097-A1                       | 12-18-2003                     | Ferree   |   |
|                       | AO                       | US-2003/0233148-A1                       | 12-18-2003                     | Ferree   |   |
|                       | AP                       | US-2004/0002759-A1                       | 01-01-2004                     | Ferree   |   |
|                       | AQ                       | US-2004/0002762-A1                       | 01-01-2004                     | Hawkins  |   |
|                       | AR                       | US-2004/0010316-A1                       | 01-15-2004                     | William et al.                                     |   |
|                       | AS                       | US-2004/0030389-A1                       | 02-12-2004                     | Ferree   |   |
|                       | AT                       | US-2004/0030390-A1                       | 02-12-2004                     | Ferree   |   |
|                       | AU                       | US-2004/0034426-A1                       | 02-19-2004                     | Errico et al.                                      |   |
|                       | AV                       | US-3,867,728                             | 02-25-1975                     | Stubstad et al.                                    |   |
|                       | AW                       | US-4,309,777                             | 01-12-1982                     | Patil  |   |
|                       | AX                       | US-4,605,417                             | 08-12-1986                     | Fleischauer  |   |
|                       | AY                       | US-4,759,766                             | 07-26-1988                     | Buettner-Janz et al.                               |   |
|                       | AZ                       | US-4,759,769                             | 07-26-1988                     | Hedman et al.                                      |   |
|                       | AA1                      | US-4,932,969                             | 06-12-1990                     | Frey et al.  |   |
|                       | AB1                      | US-4,997,432                             | 03-05-1991                     | Keller   |   |
|                       | AC1                      | US-5,236,460                             | 08-17-1993                     | Barber   |   |
|                       | AD1                      | US-5,314,477                             | 05-24-1994                     | Marnay   |   |
|                       | AE1                      | US-5,370,697                             | 12-06-1994                     | Baumgartner  |   |
|                       | AF1                      | US-5,401,269                             | 03-28-1995                     | Buttner-Janz et al.                                |   |
|                       | AG1                      | US-5,425,773                             | 06-20-1995                     | Boyd et al.  |   |
|                       | AH1                      | US-5,507,816                             | 04-16-1996                     | Bullivant  |   |
|                       | AI1                      | US-5,556,431                             | 09-17-1996                     | Buttner-Janz                                       |   |
|                       | AJ1                      | US-5,562,738                             | 10-08-1996                     | Boyd et al.  |   |
|                       | AK1                      | US-5,676,701                             | 10-14-1997                     | Yuan et al.  |   |
|                       | AL1                      | US-5,683,465                             | 11-04-1997                     | Shinn et al.                                       |   |
|                       | AM1                      | US-5,782,832                             | 07-21-1998                     | Larsen et al.                                      |   |
|                       | AN1                      | US-5,893,889                             | 04-13-1999                     | Harrington   |   |
|                       | AO1                      | US-5,895,428                             | 04-20-1999                     | Berry  |   |
|                       | AP1                      | US-5,899,941                             | 05-04-1999                     | Nishijima et al.                                   |   |
|                       | AQ1                      | US-5,989,291                             | 11-23-1999                     | Ralph et al.                                       |   |
|                       | AR1                      | US-6,039,763                             | 03-21-2000                     | Shelokov   |   |

|                       |  |                    |  |
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| Examiner<br>Signature |  | Date<br>Considered |  |
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|   |   |    |   | Examiner Name            | Not Yet Assigned                       |
| Sheet   | 2 | of | 2 | Attorney Docket Number   | SPINE 3.0-437<br>CPCPCPCPCPCPC I CON V |

|  |     |                 |            |                    |  |
|--|-----|-----------------|------------|--------------------|--|
|  | AS1 | US-6,368,350    | 04-09-2002 | Erickson et al.    |  |
|  | AT1 | US-6,375,682    | 04-23-2002 | Fleischmann et al. |  |
|  | AU1 | US-6,517,580    | 02-11-2003 | Ramadan et al.     |  |
|  | AV1 | US-6,582,468    | 06-24-2003 | Gauchet            |  |
|  | AW1 | US-6,610,092-A1 | 08-26-2003 | Ralph et al.       |  |
|  | AX1 | US-6,645,249    | 11-11-2003 | Ralph et al.       |  |
|  | AY1 | US-6,673,113    | 01-06-2004 | Ralph et al.       |  |
|  | AZ1 | US-6,682,562    | 01-27-2004 | Viart et al.       |  |
|  | AA2 | US-6,706,068    | 03-16-2004 | Ferree             |  |

| FOREIGN PATENT DOCUMENTS |                          |   |                                   |  |   |                |
|--------------------------|--------------------------|---|-----------------------------------|--|---|----------------|
| Examiner<br>Initials*    | Cite<br>No. <sup>1</sup> | Foreign Patent Document   | Publication<br>Date<br>MM-DD-YYYY | Name of Patentee or<br>Applicant of Cited Document | Pages, Columns, Lines,<br>Where Relevant Passages<br>or Relevant Figures Appear | T <sup>6</sup> |
|                          |                          | Country Code <sup>3</sup> -Number <sup>4</sup> -Kind Code <sup>5</sup> (if known) |                                   |  |   |                |
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|---------------------------------|--------------------------|---|----------------|
| Examiner<br>Initials*           | Cite<br>No. <sup>1</sup> | Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published. | T <sup>2</sup> |
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